

MEMORANDUM FOR: Director of Central Intelligence

FROM: John F. Blake
Deputy Director for Administration

SUBJECT: Records Destruction Policy

1. Action Requested: Approval of a Headquarters Notice establishing records destruction policy for CIA, and approval of a letter informing the House Select Committee on Assassinations of our intention to implement this policy.

2. Background:

a. The Agency has made two formal commitments in which we stated that we would not destroy records without the specific approval of two Congressional Committees conducting investigations involving CIA. One of these commitments has been fulfilled; the other has not. We wish to fulfill the second commitment now, so that we may proceed to destroy those records that have been approved for disposal by the Archivist of the United States. We have been accumulating these records for three years, and we are running out of space to store them. The continued possession by the Agency of several categories of records is in violation of the Privacy Act of 1974 and Executive Order 12036 and--once immediate disposition has been approved by the Archivist--the statutes and regulations which govern the maintenance and disposal of federal records. Furthermore, when we receive new search requirements under FOIA/PA, litigation, or investigations, we must consider those records that already have been authorized for disposal but have not been destroyed.

b. The first formal commitment was made by Director Bush in a letter to the Senate leadership dated 22 June 1976. In the letter Mr. Bush stated that we would submit our records control schedules to the Senate Select Committee on Intelligence for approval prior to destroying any records. This has been done, and many of the records listed have been reviewed by members of the SSCI staff. In a letter to SSCI Chairman Inouye dated 18 June 1977, you requested that he expedite the Committee's clearance of records for destruction. Finally, in a letter to you dated 21 December 1977, Senator Inouye noted the "moratorium" had expired and therefore we may return to normal records destruction policies.

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c. The second formal commitment was made by Director Bush in a letter to Chairman Downing of the House Select Committee on Assassinations dated 9 December 1976. In this letter Mr. Bush stated that we would make available to the Committee our records control schedules at the same time they were submitted to the SSCI, and that we would not destroy any records until the Committee notified the Agency that it had completed its review of the schedules and had no objection. When the Committee was first organized, records schedules were shown to Mr. Richard Sprague, then Staff Director. No action was taken due to the internal Committee turmoil leading to the termination of Sprague and a new Chairman, Representative Stokes. When we recently offered to submit the schedules, the Committee's present Chief Counsel and Director, G. Robert Blakey, stated they were in the peak of their review of CIA files and suggested we postpone further action on this matter for 6 weeks. He did, however, express his willingness to cooperate with the Agency at that time.

d. We are now caught in a dilemma. On the one hand, we are legally required to implement the disposition instructions by the Archivist. On the other hand, we are committed to refrain from implementing the instructions until notified by the HSCA. We must take affirmative action to resolve this dilemma.

STATINTL e. The records destruction policy to be established in (attached) includes safeguards to protect records of interest to investigating committees, including the HSCA. We propose that the notice be published now, in order to inform Agency employees of our "post-moratorium" destruction policy and to get on with the proper review, screening, and documentation of our records. We also propose that a copy of the notice be sent to the HSCA along with one representative records schedule; the remaining records schedules will be forwarded 1 April. The transmittal letter (attached) states that we will implement the approved records disposals beginning 1 May 1978. This letter will update our commitments of 9 December 1976 and establish our intent to comply with mandatory records disposal requirements.

3. Staff Position: The Offices of Legislative Counsel and General Counsel agree with the substance of this memorandum.

4. Recommendations:

a. That you sign the attached Headquarters Notice CIA Records Destruction Policy.

b. That you sign the attached letter to the House Select Committee on Assassinations.

John F. Blake

Attachments:

As stated

STATINTL

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RECORDS AND CORRESPONDENCE

STATIN

CIA RECORDS DESTRUCTION POLICY

STATINTL Rescission: dated 7 September 1976

STATINTL Reference :

1. This notice informs CIA employees of the requirements that must be met before Agency records may be destroyed. In a letter to the DCI dated 21 December 1977, the Chairman of the Senate Select Committee on Intelligence noted in part that the "moratorium" on destruction of intelligence and investigative records originally requested by the Senate had expired and therefore "all agencies maintaining records pursuant to the moratorium may return to normal records destruction policies." The requirements of the Agency's "normal records destruction policies" are outlined in this paragraph, and procedures are presented in paragraph 2. These requirements and procedures are effective upon publication of this notice; however, certain aspects of destruction approval are being worked out with Congress. Therefore, no records may be destroyed until publication of a second notice authorizing such destruction.

a. The United States Code, Title 44, Chapter 33, Disposal of Records, defines "records" as including "all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that Agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." (44 U.S.C. 3301)¹

b. Federal records may not be destroyed without prior authorization by the Archivist of the United States. The Archivist authorizes destruction by signing Standard Form 115, Request for Records Disposition Authority, which identifies series of related records and specifies the time for their destruction. Within the Agency, CIA Form 139, Records Control Schedule, which includes additional detail, is used to implement the dispositions approved on SF 115. Copies of SF 115 and Form 139 are provided to the Senate Select Committee on Intelligence at least 60 days prior to their implementation.

¹ "Records" include documents, whether in "soft" files or "official" files, that deal with record matters as defined above and are not merely duplicates of official record copies filed elsewhere in the Agency; records also include such things as appointment calendars, diaries, and notes if they deal with record matters as defined above.

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c. Other considerations are of equal importance in deciding whether to destroy CIA records. These considerations include legislation such as the Freedom of Information Act and the Privacy Act, litigation such as Federal antitrust suits and personal lawsuits, and matters under investigation by the Department of Justice or Congress. Although records subject to legal or investigative requirements are identified when a requirement arises, it is necessary to ensure that they are not inadvertently destroyed. Therefore, before destroying any Agency records, whether on paper, magnetic tape, film, or other recording media, it must be determined that there are no actual or impending legal or investigative requirements for the records.

2. The Agency Records Management Officer (Chief, Information Systems Analysis Staff, DDA), in coordination with other Agency officials, is responsible for ensuring that CIA records are properly maintained and destroyed in accordance with the above requirements. To ensure compliance, the following steps must be taken:

a. Before destroying any records, each employee must consult the component Records Management Officer (RMO) and the custodian of the records to verify that the records are scheduled for immediate destruction on an approved Form 139, Records Control Schedule. If the records are not scheduled for immediate destruction, they may not be destroyed unless the Agency RMO obtains approval to amend the records control schedule by submitting an SF 115, Request for Records Disposition Authority, to the Archivist of the United States.

b. Records relating to pending Freedom of Information Act or Privacy Act requests to the Agency are subject to additional retention periods established by the Archivist and included in the records control schedules. Normally, requested records are duplicated in their entirety at the time of a request, and the duplicate copies are maintained in accordance with the retention period for the related request. However, if such duplication is not practical, the records are instead flagged at the time of the request, using Form 4016, Information Request Flag, and must be segregated later from the records series at the time the records series is being processed for destruction. Alternatively, all records in process for destruction may be checked against an automated index of FOIA/PA requirements.

c. It also must be determined that records being processed for destruction are not related to actual or impending litigation or to matters under investigation by the Department of Justice or Congress. The initial determination will be made by the component RMO and the custodian based on their review of the records and on information provided by the General Counsel to the component RMO through the Agency and directorate RMO's. If the initial review raises any question as to actual or impending legal or investigative requirements for the records,

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authority to destroy them must be obtained by routing Form 141c, Request for Authorization to Retain or Destroy Questionable Records, through the custodian and the component and directorate RMO's to the Records Administration Branch, ISAS. The Agency RMO will obtain the concurrence of the General Counsel prior to approving the actual destruction of the records. (If approval is denied, the Agency RMO must submit to the Archivist a request for authorization to retain the records longer than originally scheduled.)

d. Records authorized for destruction under the above procedures still may not be destroyed until further notice. In the interim such records will be deposited in the "destruction holding area" at the Agency Archives and Records Center.

3. "Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents" are excluded from the 44 U.S.C. 3301 definition of "records" and may be destroyed when no longer needed.²

4. Questions on implementing this policy should be directed to the component Records Management Officer.

STANSFIELD TURNER
Director

Attachments:

1. Form 141c
2. Form 4016

DISTRIBUTION: ALL EMPLOYEES

² "Non-records" include:

"Reading file" or "chrono" copies of correspondence that are duplicates of the record copies filed in subject or project files.

"Tickler", "follow-up", or "suspense" copies of correspondence.

Identical duplicate copies of documents maintained in the same file.

Extra copies of printed or processed materials, official copies of which have been retained for record purposes.

Library reference collections of documents produced by other agencies, where the originating agency is responsible for maintaining the record copy.

Superseded manuals and other directives, maintained outside the office responsible for retaining the record set.

Routing slips and transmittal sheets without written comment of record value.

Drafts and stenographic materials which have been transcribed; reproduction materials such as stencils, hectograph masters, and offset plates.

Blank forms.

Catalogues, trade journals, and similar externally produced publications which require no action and are not part of a case upon which action is taken.

Desk calendars and notes which do not deal with record matters as defined in paragraph 1a above.

REQUEST FOR AUTHORIZATION TO RETAIN OR DESTROY QUESTIONABLE RECORDS

1. DESTRUCTION AUTHORIZATION NO. (Assigned
by RAB)

TO : Chief, Information Systems Analysis Staff, DDA

FROM: (OFFICE DESIGNATION OF ORIGINATOR)

THRU: Component Records Management Officer
Directorate Records Management Officer
Records Administration Branch, ISAS/DDA
Office of General Counsel

2. DATE PREPARED

THE RECORDS IDENTIFIED BELOW ARE SCHEDULED FOR IMMEDIATE DESTRUCTION; HOWEVER, THEY MAY BE SUBJECT TO ACTUAL OR IMPENDING LEGAL OR INVESTIGATIVE REQUIREMENTS. AUTHORIZATION IS REQUESTED EITHER TO RETAIN THE RECORDS OR TO DESTROY THEM AS SCHEDULED. THE RECORDS ARE BEING HELD PENDING RECEIPT OF AUTHORIZATION. IF FURTHER RETENTION IS REQUIRED, REVISED DISPOSITION INSTRUCTIONS MUST BE PROVIDED TO RECORDS ADMINISTRATION BRANCH, ISAS.

IDENTIFICATION OF RECORDS

3. OFFICE	4. SCHEDULE NO.	5. ITEM NUMBER	6. INCLUSIVE DATES	7. VOLUME (cu. ft.)
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8. PROVIDE DETAILED DESCRIPTION AND LISTING OF RECORDS AND/OR ATTACH COPY OF FORM 140 AND 140A, MARKED TO INDICATE WHICH RECORDS ARE QUESTIONABLE. EXPLAIN BASIS FOR DETERMINING THAT RECORDS ARE QUESTIONABLE.

☐ CONTINUED ON SEPARATE PAGE

9. TYPED NAME AND SIGNATURE OF CUSTODIAN OF RECORDS

EXTENSION DATE

10. TYPED NAME AND SIGNATURE OF COMPONENT RECORDS MANAGEMENT
OFFICER

EXTENSION DATE

11. TYPED NAME AND SIGNATURE OF DIRECTORATE RECORDS MANAGEMENT
OFFICER

EXTENSION DATE

AUTHORIZATION TO RETAIN OR DESTROY RECORDS

RETAIN ALL

☒

12. TYPED NAME AND SIGNATURE OF GENERAL COUNSEL REPRESENTATIVE

EXTENSION DATE

RETAIN PARTIAL

☒

DESTROY ALL

13. TYPED NAME AND SIGNATURE OF CHIEF, INFORMATION SYSTEMS ANALYSIS STAFF

DATE

APPROVED

14. ☒ PROVIDE JUSTIFICATION FOR CONTINUED RETENTION. ALSO PROVIDE PROPOSED NEW DISPOSITION INSTRUCTIONS.

☒ INDICATE UNDER SECTION 8 ABOVE WHICH RECORDS ARE TO BE RETAINED. THOSE NOT INDICATED FOR RETENTION ARE AUTHORIZED FOR IMMEDIATE DESTRUCTION.

☐ CONTINUED ON SEPARATE PAGE

INFORMATION REQUEST FLAG

THIS FORM IS USED TO SAFEGUARD FROM INADVERTENT DESTRUCTION RECORDS THAT ARE INVOLVED IN FREEDOM OF INFORMATION ACT OR PRIVACY ACT REQUESTS, LITIGATION, OR MATTERS UNDER INVESTIGATION BY THE DEPARTMENT OF JUSTICE OR CONGRESS. IT MUST BE FILED IN THE FRONT OF A FOLDER TO LIST ALL DOCUMENTS IN THE FOLDER RELATED TO A SPECIFIC REQUEST (*one form for each request*), OR AS A SINGLE ATTACHMENT TO EACH INDIVIDUAL DOCUMENT. IT MUST NOT BE REMOVED FROM THE DOCUMENT OR FOLDER UNTIL THE RECORD SERIES IS DUE FOR DESTRUCTION IN ACCORDANCE WITH APPROVED RECORDS CONTROL SCHEDULES AT WHICH TIME DISPOSITION OF FLAGGED RECORDS WILL BE CHECKED WITH THE COMPONENT RECORDS MANAGEMENT OFFICER AND OTHER AUTHORITIES AND WILL BE DEPENDENT ON THE STATUS OF EACH REQUEST.

TYPE OF REQUEST

PRIVACY ACT	CONGRESSIONAL INVESTIGATIONS	OTHER (<i>specify</i>)
FOIA	DEPT. OF JUSTICE INVESTIGATIONS	
LITIGATION	MANDATORY CLASSIFICATION REVIEW	

REQUESTER

REQUEST NO.

SUBJECT OF REQUEST

DATE OF REQUEST

DOCUMENTS SUBJECT TO REQUEST - INCLUDE FILE NO., SYMBOL, DATE AND SUBJECT

☐ CONTINUED ON SEPARATE PAGE

REMARKS

☐ CONTINUED ON SEPARATE PAGE

DATE OF COMPONENT RESPONSE

DATE APPEALED (*if applicable*)

DO NOT REMOVE THIS FORM FROM THIS FILE

INFORMATION REQUEST

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